

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1357-04
Bill No.: Perfected HCS for HJR 26
Subject: Constitutional Amendments; Domestic Relations
Type: Original
Date: April 24, 2013

Bill Summary: This proposal proposes a constitutional amendment guaranteeing to parents their fundamental right to control the care, custody, upbringing, and education of their minor children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	\$0 or (\$7,100,000)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0 or (\$7,100,000)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Bill as a whole:

Officials from the **Office of Secretary of State (SOS)** state each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7.1 million based on the cost of the 2012 Presidential Preference Primary. This figure was determined through analyzing and totaling expense reports from the 2012 Presidential Preference Primary received from local election authorities.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Oversight has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2014. This reflects the decision made by the Joint Committee on Legislative Research, that the potential cost of elections should be reflected in the fiscal note. The next scheduled general

ASSUMPTION (continued)

election is in November 2014 (FY 2015). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2014.

Officials from the **Department of Social Services (DSS) - Division of Legal Services (DLS)** state the proposal is not expected to impact the DLS fiscally, but may otherwise impact the Children's Division (CD). That impact is unknown.

The standard of evidence for the CD to substantiate a report of child abuse/neglect is Preponderance of the Evidence (POE). Once a report has been found substantiated by POE, the parents may be asked to engage in services through the CD in order to address issues of abuse/neglect with the intent to provide education and skills training to the parents that may lessen the probability of future referrals and decrease the risk of abuse/neglect. These family-centered services cases, while voluntary, are often opened in order to avoid court action. The proposal, as written, allows for investigation, but may lead to confusion regarding a request for a parent to participate in services based on a POE finding. Currently, the services are always voluntary, but there may be consequences, including juvenile court action, for failure to participate, if such participation is deemed necessary to protect the children. If enacted, advocates for parents may attempt to utilize this section to argue that the standard for placing a name in the central registry needs to be increased from the current POE standard to a clear and convincing standard. The DLS believes that the last sentence of section 35.4 was included to eliminate that risk. However, it is possible that the DLS may see litigation over this issue if the amendment is enacted. This litigation can be expected to have a fiscal impact, but it is not possible to calculate that impact with the current information. The DLS, therefore, projects an unknown fiscal impact.

Oversight assumes the potential for litigation to be speculative and therefore, assumes the proposal will have no fiscal impact on the DSS-DLS. If a significant fiscal impact were to occur, the DLS could request additional funding through the appropriations process.

Officials from the **DSS - Children's Division (CD)** state the proposal does not impact the CD fiscally or programmatically.

However, while the intent of this proposal is to provide certainty to parents regarding their fundamental rights to parent their children without governmental interference, section 35.4 provides language that would continue to allow peace officers, law enforcement officers, juvenile courts, other courts of law, or state agencies to continue to investigate and take the necessary actions to protect the life, health and safety of minor children and to investigate child abuse, child neglect, or medical neglect.

ASSUMPTION (continued)

In addition to the above statement, this substitute provides in Section 35.5 “Nothing contained in this section shall be construed to confer upon a parent the right to compel a minor child to undergo an abortion”. The addition of this language will not fiscally impact the CD.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of State Courts Administrator**, the **Department of Elementary and Secondary Education**, the **Department of Mental Health**, the **Department of Health and Senior Services**, the **Department of Public Safety - Missouri State Highway Patrol**, the **Joint Committee on Administrative Rules**, the **City of Columbia**, the **City of Kansas City, St. Louis County**, the **Jefferson City Police Department**, the **Springfield Police Department**, and the **Parkway School District** each assume the proposal would not fiscally impact their respective agencies.

No additional officials from Cities, Counties, Local law enforcement, or schools responded to **Oversight’s** request for a statement of fiscal impact.

Officials from the **Office of Prosecution Services** did not respond to **Oversight’s** request for a statement of fiscal impact.

House Amendment #1:

Officials from the **Department of Elementary and Secondary Education** assume the proposal would not fiscally impact their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE FUND			
<u>Transfer-Out - SOS</u>			
Reimbursement of local election authority election costs if a special election is called by the Governor	<u>\$0 or</u> <u>(\$7,100,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or</u> <u>(\$7,100,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
LOCAL ELECTION AUTHORITIES FUNDS			
<u>Transfer-In</u> - Local Election Authorities			
Reimbursement of local election authority special election costs	\$0 or \$7,100,000	\$0	\$0
<u>Costs</u> - Local Election Authorities			
Cost of special election	\$0 or <u>(\$7,100,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Upon voter approval, this proposed constitutional amendment specifies that parents have a fundamental right to exercise exclusive control over the care, custody, and upbringing of their minor children, including all decisions involving the discipline, education, religious instruction, health, medical care, place of habitation, and general well-being of the minor children. However, parents are not allowed to compel a minor child to have an abortion.

The resolution prohibits the state and any of its political subdivisions from infringing on this right; however the right can be modified by a court when a parent has been found guilty of or pleads guilty to a crime of violence against a child, abuse of a child, kidnapping of a child, abandonment of a child, sexual abuse of a child, sexual conduct or any other sexual offense against a child, criminal nonsupport, or endangering the welfare of a child; or when a parent has been found by a court by clear and convincing evidence to have committed child abuse, child neglect or medical neglect; or as a result of adoption, child abandonment, mental incompetency or marital dissolution proceedings, or through the voluntary consent of the parent of a child. Law enforcement officers and courts can continue to carry out their duties to protect minor children.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Health and Senior Services
Department of Public Safety -
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Office of Secretary of State
City of Columbia
City of Kansas City
St. Louis County
Jefferson City Police Department
Springfield Police Department
Parkway School District

Not Responding:

Office of Prosecution Services



Ross Strope
Acting Director
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